



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
---------------	-------------	----------------------	---------------------

07/956,722 10/01/92 CERAMI

A 600-1-060
EXAMINER

CEPERLEY, M

18N1/0916

KLAUBER & JACKSON
411 HACKENSACK AVE.
HACKENSACK, NJ 07601

ART UNIT	PAPER NUMBER
----------	--------------

1802

DATE MAILED:

09/16/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined for restriction purposes only. ☐ Responsive to communication filed on _____ ☐ This action is made final.
A shortened statutory period for response to this action is set to expire 0 month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-26 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-26 are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Serial No. 07/956,722

-2-

Art Unit 1802

In the section entitled CROSS-REFERENCE TO RELATED APPLICATIONS applicants refer to S.N. 07/805,200. However, this application has several parents to which no reference is made. Also, it is noted that the declaration filed with this application states that benefit under 35 USC 120 is NOT claimed for any previously filed application. Clarification of these discrepancies is required.

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-3, 7, 8, 24 and 25 (at least part of each), drawn to triazine compounds of the formulas (I) and (II), classified in Class 544, subclasses 182-184.

II. Claims 1, 7, 8, 24 and 25 (at least part of each), drawn to diazine compounds and compositions, classified in Class 544, subclasses 331 and 332.

III. Claims 1, 7, 8, 24 and 25 (at least part of each), drawn to diazole compounds and compositions, classified in Class 548, subclass 315.

IV. Claims 1, 7, 8, 24 and 25 (at least part of each), drawn to compounds and compositions having seven-membered rings containing two nitrogen atoms classified in Class 540, subclass

Serial No. 07/956,722

-3-

Art Unit 1802

492.

V. Claims 1, 2, 4, 7, 8, 24 and 25 (at least part of each), drawn to non-heterocyclic compounds and compositions, classified in Class 564, subclass 225.

VI. Claims 5, 6, 9-18 and 20, drawn to tracers, kits and a method of determining antibodies or antigens, classified in Class 435, subclasses 7.1+ and 188.

VII. Claims 16 and 26, drawn to a method of making the compounds of claim 1, classified based on the type of final product obtained.

VIII. Claim 19, drawn to an in vivo method of administering an antibody, classified in Class 424, subclass 85.8.

IX. Claims 21-23, drawn to a method of cross-linking proteins, classified in Class 530, subclass 403+.

The inventions are distinct, each from the other because of the following reasons:

(A) Each of groups I-V is drawn to a distinct class of compounds which is separately classified and searched in the patent and chemical literature. A reference which would anticipate or render obvious the members of one group would not necessarily render obvious the members of another group.

(B) Inventions I-V and VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case the triazine compounds could have an alternate utility in the herbicide area.

(C) Inventions I-V and VII are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the compounds of I-V could be made by enzymatic methods.

(D) The method of group VIII does not require the use of any of the compounds of the remaining claims and is therefore patentably distinct.

(E) Inventions I-V and IX are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially

Serial No. 07/956,722

-5-

Art Unit 1802

different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case the triazine compounds of I-V could be used as herbicides or could be used as haptens to make the corresponding immunogens.

Because these inventions are distinct for the reasons given above and have attained separate status in the art as evidenced by divergent classification, restriction for examination purposes as indicated is proper.

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Serial No. 07/956,722

-6-

Art Unit 1802

Papers related to this application may be submitted to Group 180 by facsimile transmission. Papers should be faxed to Group 180 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (Nov. 15, 1989). The CM1 Fax Center number is (703) 305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Ceperley whose telephone number is (703) 308-4239.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

mec
September 14, 1993
a:956722.res

Mary E. Ceperley
MARY E. CEPERLEY
PRIMARY EXAMINER
ART UNIT ~~122~~ 1802